



South Dakota State Archives Records Training: The Basics

Part 4: Public records requests

Welcome to the South Dakota State Archives' basic records training series, Part 4:
Public records requests

Public Records Law in South Dakota

Except as otherwise expressly provided by statute, **all citizens of this state, and all other persons interested** in the examination of the public records...**are hereby fully empowered and authorized to examine such public record**, and make memoranda and abstracts therefrom during the hours the respective offices are open for the ordinary transaction of business and, unless federal copyright law otherwise provides, obtain copies of public records in accordance with this chapter.

Each government entity or elected or appointed government official shall, during normal business hours, **make available to the public** for inspection and copying in the manner set forth in this chapter **all public records held by that entity or official**.

- SDCL 1-27-1



South Dakota Codified Law 1-27-1, gives South Dakota citizens and other interested parties the authority to examine and receive copies of all public records. Government entities are required to make their records available to the public during normal business hours.

Public Records Law Exemptions

Records containing:

- Private information about individuals (personnel records, student grades, medical records, credit card numbers, Social Security numbers, etc.)
- Trade secrets
- Attorney work product
- Records of ongoing investigations (law enforcement, etc.)
- Blueprints of public buildings and other records whose disclosure would endanger public safety
- Locations of archaeological sites
- Information made closed or confidential by other state or federal statutes.

SDCL 1-27-1.5



There are a number of exceptions to the public records law, which are in place to protect the privacy of individuals, property rights, and, in some cases, public safety. Examples include records containing private information about individuals (such as personnel information or social security numbers), blueprints of public buildings, and locations of archaeological sites. The full list of exemptions can be found in SDCL 1-27-1.5.

Other Things to Note

Records are records regardless of format – and all are subject to public records requests.

You do not have to create a record if one does not exist, or produce it in a different format

You may redact confidential information from a document before producing it



There are a few other important things to note about the South Dakota public records law.

First, the public records law does not differentiate between record formats. Information stored digitally, paper records, audiovisual materials, maps – all can be subject to public records requests.

Second, if someone requests information that your agency does not normally capture, you do not have to create a new record to fulfill the request. Also, you do not need to reformat the record to suit the needs of the requestor. If the requested record is saved as a PDF, for example, you are not required to convert it to an Excel spreadsheet.

Third, if a requested document contains restricted information, you may redact that information from the document before producing it. The document should be clearly marked, so the requestor knows information was removed from it, and justifications given in the response letter. Redactions are considered a partial denial of a records request, which can be appealed by the requestor.

Records Request Process

Step 1: Informal Request

- Submitted to custodian of the record
- Requestor may be required to reproduction costs if request takes more than an hour to complete
- Rates established by Administrative Rule
- Custodian should provide a cost estimate to the requestor if the request is likely to cost more than \$50



So, how exactly does the South Dakota records request process work?

The process begins with an informal request to the custodian of the record. So for example, if someone contacts your office and asks to see your files on a specific project. If the request is extensive and takes longer than an hour to complete, then the requestor may be required to pay for reproduction costs. If the request is likely to cost more than \$50, you should provide a cost estimate to the requestor.

Most records requests end here.

Records Request Process

Step 2: Formal Written Request

- If informal request is denied in whole or in part by the custodian, a written request may be made to the public records officer.
- The records officer has 10 business days to respond to the request by:
 - Providing the record requested
 - Denying the request (must give reasons for the denial in a written statement)
 - Asking for clarification of the request
 - Acknowledging receipt of the request and providing an estimate of time needed to complete it

However, if the informal request is denied in whole or in part, a formal written request may be made to the public records officer, which is usually the agency head. The records officer then has 10 days to respond to the request. They can provide the requested record, deny the request, ask for clarification, or acknowledge that the request has been received and give an estimate of the time needed to complete it. If the request is denied, the records officer must provide a written statement explaining the reasons for the denial. These letters should be kept permanently on file.



Step 3: Appeal Process

Requestors may within ninety days of the denial commence a civil action by summons or file a written notice of review with the Office of Hearing Examiners.

Records Request Process



Within ninety days of the denial, a requestor can file a written notice of review with the Office of Hearing Examiners to appeal the decision, or commence a civil action by summons.

Have questions?
Contact:

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Visit <https://boa.sd.gov/ohe/resolution-process.aspx> to learn more!

Music - "Corporate Presentation" by Scott Holmes
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Thank you for joining us for part four of our series. For more information on the public records request process, visit the Office of Hearing Examiners website at the URL on your screen. As always, if you have questions, please contact Sara Casper at the State Archives, or Dana Hoffer with the State Records Management Office.